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In re Application of KATSUMATA et al
U.S. Application No.: 09/762,568
Int. Application No.: PCT/JP00/02785
Int. Filing Date: 27 April 2000
Priority Date: 04 June 1999
Attorney Docket No.: HIKARI.001APC
For: NOVEL PLASMID VECTOR

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicants' "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 06 February 2001.

BACKGROUND

On 27 April 2000, applicants filed international application PCT/JP00/02785, which claimed priority of an earlier Japan application filed 04 June 1999. A copy of the international application was communicated to the USPTO from the International Bureau on 14 December 2000. The twenty-month period for paying the basic national fee in the United States expired at midnight on 05 February 2001 (04 February 2001 was a Sunday).

International application PCT/JP00/02785 became abandoned as to the United States at midnight on 05 February 2001 for failure to pay the basic national fee.

On 06 February 2001, applicants filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the delay in submission of the proposed response or fee was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicants have provided the basic national fee required under 35 U.S.C. 371.

With regard to item (2), applicants have provided the required petition fee.

With regard to item (3), the petition states, "The delay in submission of the proposed response or fee was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

A fee of \$130.00 set forth in 37 CFR 1.492(f) for filing a translation of the international application into English later than twenty months from the priority date will be charged to Deposit Account No. 11-1410 per applicants' authorization.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision, including preparation and mailing of a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 along with the associated late filing surcharge must be filed.



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